Law & Policies on Malaysia’s Sharks and Rays

Ms. Shantini Gunarajan
Marine Policy Manager
WWF-Malaysia
1,2,3,4,5, once I saw a saw alive; 6,7,8,9,10, when will I ever see one again.
General Legal Structure

- Federal Constitution
- Federal Laws
- State Laws
- Local By-Laws
Some Key International Commitments

- Convention on Biological Diversity
- United Nations Convention on the Laws of the Sea
- Convention on International Trade in Endangered Species of Wild Flora and Fauna
- Coral Triangle Initiative
Legal Jurisdiction

Spatial/Area Based

Federal

State

Subject Matter

Concurrent
Spatial/Area Based Jurisdiction

- Exclusive Economic Zone
- Territorial Sea
- State Coastal Waters
- Inland Waters
Subject Matter Jurisdiction

- Federal
  - International Obligations, trade, commerce, shipping, fishing

- Concurrent
  - Protection of wild animal, national parks, maritime and estuary fishing, shipping below 15nrt

- State
  - Land, Inland fishing
1,2,3,4,5; Once I caught a shark alive;
6,7,8,9,10; But then I let it go again;
Why did I let it go? Because by law I must do so-

LEGAL STATUS OF SHARKS IN MALAYSIA
Question

1. Are sharks protected under Malaysian Laws?
2. Are sharks a targeted fishery or bycatch?
3. Which is applicable in Malaysia?
   i. A Fin Ban
   ii. A Finning Ban
   iii. A ban on the killing of Sharks
Fisheries Act 1985

• "fish" means any aquatic animal or plant life, sedentary or not, and includes all species of finfish, crustacea, mollusca, aquatic mammals, or their eggs or spawn, fry, fingerling, spat or young, but does not include any species of otters, turtles or their eggs;
CITES and ITESA

- CITES Appendix I
  - Sawfish (seven species) (Pristidae)
- CITES Appendix II
  - Manta Rays (Manta spp.)
  - Basking Shark (Cetorhinus maximus)
  - Whale Shark (Rhincodon typus)
  - Great White Shark (Carcharodon carcharias)
  - Porbeagle Shark (Lamna nasus)
  - Oceanic Whitetip Shark (Carcharinus longimanus)
  - Scalloped Hammerhead (Sphyrna lewini)
  - Great Hammerhead Shark (Sphyrna mokarran)
  - Smooth Hammerhead Shark (Sphyrna zygaena)
  - Mobula (Devil) Rays (Mobula spp.)
  - Silky Shark (Carcharhinus falciformis)
  - Thresher Sharks (Alopias)

- ITESA-
  - Appendix I lists 6 species of saw fish [the seventh species, a fresh water species is listed in Appendix II]
  - Additionally Appendix II lists:
    - Freshwater Sawfish (Pristis microdon)
    - Basking Shark (Cetorhinus maximus),
    - Great White Shark (Carcharodon carcharias), and
    - Whale Shark (Rhincodon typus).
  - 7 species of Rays
Fisheries [Control of Endangered Species of Fish] Regulations 1999]

- Whale shark
- 7 species of saw fish
## Existing Legal and Policy Instruments

<table>
<thead>
<tr>
<th>Mechanism</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permits</td>
<td>Could limit catch to sustainable levels but not ban exploitation</td>
</tr>
<tr>
<td>Gear Modifications / Specification</td>
<td>Reduce bycatch but does not ban all exploitation</td>
</tr>
<tr>
<td>Finning Ban</td>
<td>Regulates method of shark killing</td>
</tr>
<tr>
<td></td>
<td>Deters wastage</td>
</tr>
<tr>
<td>Restriction on killing or trade for specific species</td>
<td>Protection of Endangered Species</td>
</tr>
<tr>
<td>Marine Reserves/ Totally Protected Areas</td>
<td>Generally no exploitation of fishery resources</td>
</tr>
<tr>
<td>Shark Sanctuary</td>
<td>Generally no commercial exploitation of sharks</td>
</tr>
<tr>
<td>Fiscal incentives</td>
<td>Objective to deter IUU and encourage landing of commercial fish species</td>
</tr>
</tbody>
</table>
# List of Laws

## Federal Laws
- Territorial Sea Act 2012
- ITESA 2008
- Customs Act-Prohibition of Import/Export
- Fishe
- Fishe Act 1985
- Merchant Shipping Ordinance 1952

## State Laws
- Parks Enactment
- Wildlife Conservation Enactment
- Land Ordinance
- Town and Country Planning Ordinance
Some Key National Policies

• National Agro Food Policy
• National Plan of Action (NPOA) for the Conservation and Management of Sharks
• National Plan of Action on the Coral Triangle Initiative
• National Plan of Action on Preventing and Eliminating Illegal Unreported and Unregulated Fishing
• National Policy on Biological Diversity
NPOA : Sharks

- Main Goal: to conserve, rehabilitate and sustain sharks and rays resources in Malaysia

- Action Plan:
  i. Improvement of Data Collection
  ii. Rectifying the Negative Perception on Sharks and Rays
  iii. Intensifying Capacity Building
  iv. Strengthening Management and Conservation
  v. Strengthening Law and Enforcement
  vi. Comprehensive and Coordinated Research
  vii. Securing Funding
### Effectiveness of Existing Mechanisms

<table>
<thead>
<tr>
<th>Activities Impacting Sharks</th>
<th>The Role of Laws and Policies in mitigating such threats</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bycatch</td>
<td>Low</td>
<td>Generally no restriction on landing of shark bycatch. Generally no means to manage demand for shark bycatch.</td>
</tr>
<tr>
<td>Domestic Trade</td>
<td>Low</td>
<td>Generally no regulations on trade and consumption of shark products.</td>
</tr>
<tr>
<td>International Trade</td>
<td>Medium</td>
<td>General restriction on import and export of CITES listed species.</td>
</tr>
<tr>
<td>Shark Finning</td>
<td>Medium</td>
<td>Whilst wastage is minimised and how sharks are killed is regulated, it does not curb the exploitation of sharks.</td>
</tr>
<tr>
<td>Habitat destruction</td>
<td>Low/medium</td>
<td>Laws establishing marine protected areas exist but impact not fully understood.</td>
</tr>
</tbody>
</table>
What policies and laws need to be strengthened?

- Is the Fisheries Act 1985 compatible with EAFM principles?
- Are there sufficient bycatch related laws and policies?
- How do other sectoral policies complement efforts in conserving and managing shark and rays?
- Are fresh water sharks and rays adequately protected?
- Should more species be protected under the 1999 Fisheries Regulations Control of Endangered Fish Species?
- Do we need more Marine Protected Areas?
Shark conservation and management policy: a review and primer for non-specialists
Enabling Conditions for Better Conservation and Management of Sharks

1. Scientific data at the species level
2. Enforcement of Laws
3. Resources for implementation of commitments under policies/ NPOAs and laws-
4. Political will
5. Timely review and updating of policies and laws
Thank You

WWF Malaysia

November 2016